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resulting decrease in soybean acres will serve to open up export markets for Brazil to increase its corn and soybean production.

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Flexible leases and USDA payments

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The Farm Service Agency (FSA) recently issued a notice that clarifies the possible effects that a flexible cash rent agreement can have on the division of direct and counter-cyclical payments (DCPs) between the tenant and land owner. Basically, any lease in which the crop that is produced from the farm or the proceeds derived from the crop on the farm is used to set the rent each year is considered a "share" lease for DCP purposes. Under a share lease the DCPs must be shared in proportion to the risk assumed by each party. One way to estimate this share is to divide the amount of the rent that would be variable, assuming expected yields and prices, by the total gross revenue expected from the crop.

For example, assume the lease calls for the rent to be equal to \$100 per acre plus 40 percent of the gross revenue in excess of \$300 for corn. If the expected yield is 160 bushels and the expected price is \$3.30 per bushel, the gross revenue would be \$528 per acre and the "flex bonus" added to the rent would be 40 percent of \$228, or \$91.20. The proportion of risk born by the owner would be \$91.20 divided by \$528, or 17 percent. The agreement could call for the owner to receive 17 percent of the DCPs.

If land owners do not wish to be involved in the DCP process, alternative flexible lease provisions are available. If the formula used to determine the rent does not contain the actual farm yield or proceeds derived from it, the lease is considered to be a cash lease and all DCPs are paid to the tenant. For example, a fixed number of bushels or the county average yield can be used to determine the actual rent, instead of the farm yield. County yield values are estimated by the USDA, and using them does not increase the tenant's rent if higher farm yields are achieved through superior management. However, final estimates of county yields may not be available until March each year.

If the tenant pays the owner a "cash bonus" in years in which returns are better than expected, but the amount of the bonus is not directly tied to the farm yield or actual proceeds derived from the farm yield, the lease is still considered a cash rent agreement by FSA.

Tenants and landlords who enter into a flexible cash lease that could be considered a "share lease" should provide a copy of it to their county FSA office, and get approval for any proposed sharing of the direct and counter cyclical payments. The notice from FSA regarding flexible cash leases can be viewed at http://www.fsa.usda.gov/Internet/FSA_Notice/dcp_172.pdf or from any county FSA office.